

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2008-0263-MLM-E **TCEQ ID:** RN103162673 **CASE NO.:** 35375
RESPONDENT NAME: Mario Hernandez dba KK Busters Plumbing

Page 1 of 3

| | | |
|--|--|---|
| ORDER TYPE: | | |
| <input checked="" type="checkbox"/> 1660 AGREED ORDER | <input type="checkbox"/> FINDINGS AGREED ORDER | <input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING |
| <input type="checkbox"/> FINDINGS DEFAULT ORDER | <input type="checkbox"/> SHUTDOWN ORDER | <input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER |
| <input type="checkbox"/> AMENDED ORDER | <input type="checkbox"/> EMERGENCY ORDER | |
| CASE TYPE: | | |
| <input type="checkbox"/> AIR | <input checked="" type="checkbox"/> MULTI-MEDIA (check all that apply) | <input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE |
| <input type="checkbox"/> PUBLIC WATER SUPPLY | <input type="checkbox"/> PETROLEUM STORAGE TANKS | <input type="checkbox"/> OCCUPATIONAL CERTIFICATION |
| <input checked="" type="checkbox"/> WATER QUALITY | <input type="checkbox"/> SEWAGE SLUDGE | <input type="checkbox"/> UNDERGROUND INJECTION CONTROL |
| <input checked="" type="checkbox"/> MUNICIPAL SOLID WASTE | <input type="checkbox"/> RADIOACTIVE WASTE | <input type="checkbox"/> DRY CLEANER REGISTRATION |
| <p>SITE WHERE VIOLATION(S) OCCURRED: KK Busters Plumbing, 3221 Wellington Court, Brownsville, and property located at 9255 Old State Highway 48, Brownsville, Cameron County</p> <p>TYPE OF OPERATION: Sludge transporter facility</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: A complaint was received on December 11, 2007, alleging that open containers located at 9255 Old State Highway 48 in Brownsville were discharging oil, grease, and septic tank sewage onto the ground. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: A complaint was received, but the complainant has not expressed a desire to protest this action or to speak at Agenda.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on June 23, 2008. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Andrew Hunt, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-1203; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171 Respondent: Mr. Mario Hernandez, Owner, KK Busters Plumbing, 3221 Wellington Court, Brownsville, Texas 78526 Respondent's Attorney: Not represented by counsel on this enforcement matter</p> | | |

VIOLATION SUMMARY CHART:

| VIOLATION INFORMATION | PENALTY CONSIDERATIONS | CORRECTIVE ACTIONS TAKEN/REQUIRED |
|--|--|---|
| <p>Type of Investigation: <input checked="" type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: December 11, 2007</p> <p>Date of Investigation Relating to this Case: December 17, 2007</p> <p>Date of NOV/NOE Relating to this Case: January 24, 2008 (NOE)</p> <p>Background Facts: This was a complaint investigation.</p> <p>WATER/WASTE</p> <p>1) Failure to deposit wastes at a facility designated by or acceptable to the generator where the owner or operator of the facility agrees to receive the waste and the (Texas) facility has written authorization by permit or registration issued by the Executive Director to receive wastes. Specifically, it was documented that the Respondent disposed of grease trap sludge waste at the Site, which was not authorized by permit or registration to receive waste [30 TEX. ADMIN. CODE § 312.143].</p> <p>2) Failure to submit a new registration application when the transport operations are no longer adequately described by the existing registration. Specifically, during the investigation, it was noted that the Respondent was disposing of waste at a facility not designated on the registration [30 TEX. ADMIN. CODE § 312.142(e)].</p> <p>3) Failed to report discharges or spills to the TCEQ no later than 24 hours after the occurrence of the discharge or spill. Specifically, the Respondent did not report a December 13, 2007 spill at the Site until December 17, 2007 [30 TEX. ADMIN. CODE § 312.146 and TEX. WATER CODE § 26.039(b)].</p> <p>4) Failed to prevent the unauthorized discharge of pollutants including grease</p> | <p>Total Assessed: \$2,800</p> <p>Total Deferred: \$560 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid (Due) to General Revenue: \$160 (remaining \$2,080 due in 13 monthly payments of \$160 each)</p> <p>Site Compliance History Classification <input checked="" type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input checked="" type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p> | <p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:</p> <p>a. On December 17, 2007, the TCEQ Harlingen Regional Office received a notice of noncompliance from the Respondent for a December 13, 2007 discharge of grease trap sludge;</p> <p>b. On December 18, 2007, the TCEQ Harlingen Regional Office received an amendment to the registration including Valley Dewatering Services as an additional disposal site;</p> <p>c. On January 21, 2008, the Respondent transported 2,050 gallons of sludge to Valley Dewatering Services disposal site from the storage tanks located at 9255 Old Highway 48, Brownsville, Cameron County, Texas ("the Site"); and</p> <p>d. On January 29, 2008, the Respondent removed and properly disposed of grease-contaminated soil at the Site.</p> |

| | | |
|--|--|--|
| trap waste onto the ground at the Site [30 TEX. ADMIN. CODE § 330.15(c)]. | | |
|--|--|--|

Additional ID No(s): SLGTR23383



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision January 29, 2008

| | | | | | | |
|--------------|-----------------|-------------|------------------|-------------|----------------|--|
| DATES | Assigned | 4-Feb-2008 | Screening | 11-Feb-2008 | EPA Due | |
| | PCW | 11-Feb-2008 | | | | |

| | | | |
|--|---|---------------------------|-------|
| RESPONDENT/FACILITY INFORMATION | | | |
| Respondent | Mario Hernandez dba KK Busters Plumbing | | |
| Reg. Ent. Ref. No. | RN103162673 | | |
| Facility/Site Region | 15-Harlingen | Major/Minor Source | Minor |

| | | | |
|--------------------------|-----------------------|--------------------------|--------------------|
| CASE INFORMATION | | | |
| Enf./Case ID No. | 35375 | No. of Violations | 4 |
| Docket No. | 2008-0263-MLM-E | Order Type | 1660 |
| Media Program(s) | Municipal Solid Waste | Enf. Coordinator | Andrew Hunt |
| Multi-Media | Water Quality | EC's Team | Enforcement Team 1 |
| Admin. Penalty \$ | Limit Minimum | \$0 | Maximum |
| | | | \$10,000 |

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** **\$3,500**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History **-10% Enhancement** **Subtotals 2, 3, & 7** **-\$350**

Notes A reduction is recommended due to High Performer Classification.

Culpability **No** **0% Enhancement** **Subtotal 4** **\$0**

Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply **10% Reduction** **Subtotal 5** **\$350**

| | | |
|---------------|------------|-------------------------------|
| | Before NOV | NOV to EDPRP/Settlement Offer |
| Extraordinary | | |
| Ordinary | | X |
| N/A | | (mark with x) |

Notes The Respondent achieved compliance on January 29, 2008.

| | |
|-----------------------------------|---------|
| Total EB Amounts | \$8 |
| Approx. Cost of Compliance | \$1,540 |

0% Enhancement*
*Capped at the Total EB \$ Amount

Subtotal 6 **\$0**

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$2,800**

OTHER FACTORS AS JUSTICE MAY REQUIRE

0%

Adjustment **\$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount **\$2,800**

STATUTORY LIMIT ADJUSTMENT

Final Assessed Penalty **\$2,800**

DEFERRAL

20%

Reduction

Adjustment **-\$560**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY

\$2,240

Screening Date 11-Feb-2008

Docket No. 2008-0263-MLM-E

PCW

Respondent Mario Hernandez dba KK Busters Plumbing

Policy Revision 2 (September 2002)

Case ID No. 35375

PCW Revision, January 29, 2008

Reg. Ent. Reference No. RN103162673

Media [Statute] Municipal Solid Waste

Enf. Coordinator Andrew Hunt

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

| Component | Number of... | Enter Number Here | Adjust. |
|-------------------------------|--|-------------------|---------|
| NOVs | Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria) | 0 | 0% |
| | Other written NOVs | 0 | 0% |
| Orders | Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria) | 0 | 0% |
| | Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission | 0 | 0% |
| Judgments and Consent Decrees | Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments or consent decrees meeting criteria) | 0 | 0% |
| | Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government | 0 | 0% |
| Convictions | Any criminal convictions of this state or the federal government (number of counts) | 0 | 0% |
| Emissions | Chronic excessive emissions events (number of events) | 0 | 0% |
| Audits | Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted) | 0 | 0% |
| | Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed) | 0 | 0% |
| Please Enter Yes or No | | | |
| Other | Environmental management systems in place for one year or more | No | 0% |
| | Voluntary on-site compliance assessments conducted by the executive director under a special assistance program | No | 0% |
| | Participation in a voluntary pollution reduction program | No | 0% |
| | Early compliance with, or offer of a product that meets future state or federal government environmental requirements | No | 0% |

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

High Performer

Adjustment Percentage (Subtotal 7) -10%

>> Compliance History Summary

Compliance
History
Notes

A reduction is recommended due to High Performer Classification.

Total Adjustment Percentage (Subtotals 2, 3, & 7) -10%

| | | | | |
|---|--|--|--------------------------------------|-------|
| Screening Date 11-Feb-2008 | Docket No. 2008-0263-MLM-E | PCW | | |
| Respondent Mario Hernandez dba KK Busters Plumbing | <small>Policy Revision 2 (September 2002)</small> | | | |
| Case ID No. 35375 | <small>PCW Revision January 29, 2008</small> | | | |
| Reg. Ent. Reference No. RN103162673 | | | | |
| Media [Statute] Municipal Solid Waste | | | | |
| Enf. Coordinator Andrew Hunt | | | | |
| Violation Number | 1 | | | |
| Rule Cite(s) | 30 Tex. Admin. Code § 312.143 | | | |
| Violation Description | <p>Failed to deposit wastes at a facility designated by or acceptable to the generator where the owner or operator of the facility agrees to receive the waste and the (Texas) facility has written authorization by permit or registration issued by the Executive Director to receive wastes, as documented during the December 17, 2007 investigation. Specifically, it was documented that the Respondent disposed of grease trap sludge waste at a site located at 9255 Old Highway 48, Brownsville, Cameron County, Texas ("the Site"), which was not authorized by permit or registration to receive waste.</p> | | | |
| Base Penalty | | \$10,000 | | |
| >> Environmental, Property and Human Health Matrix | | | | |
| OR | Release | Harm | | |
| | | Major Moderate Minor | | |
| | Actual | Potential | | |
| | Major | Moderate | Minor | |
| | x | | | |
| | | Percent | 5% | |
| >> Programmatic Matrix | | | | |
| | Falsification | Major | Moderate | Minor |
| | x | | | |
| | | Percent | 0% | |
| Matrix Notes | <p>Human health or the environment will or could be exposed to insignificant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.</p> | | | |
| Adjustment | | \$9,500 | | |
| | | \$500 | | |
| Violation Events | | | | |
| Number of Violation Events | | 1 | 35 | |
| | | Number of violation days | | |
| <small>mark only one with an x</small> | daily | x | | |
| | monthly | | | |
| | quarterly | | | |
| | semiannual | | | |
| | annual | | | |
| | single event | | x | |
| <p>One single event is recommended based on the date of investigation (12/17/2007).</p> | | | | |
| Economic Benefit (EB) for this violation | | Statutory Limit Test | | |
| Estimated EB Amount | | \$2 | Violation Final Penalty Total | |
| | | \$400 | | |
| | | This violation Final Assessed Penalty (adjusted for limits) | | |
| | | \$400 | | |

Economic Benefit Worksheet**Respondent** Mario Hernandez dba KK Busters Plumbing**Case ID No.** 35375**Reg. Ent. Reference No.** RN103162673**Media** Municipal Solid Waste**Violation No.** 1

| Percent Interest | Years of Depreciation |
|------------------|-----------------------|
| 5.0 | 15 |

| Item Description | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|
| No commas or \$ | | | | | | | |

Delayed Costs

| | | | | | | | |
|--------------------------|-------|-------------|-------------|-----|-----|-----|-----|
| Equipment | | | | 0.0 | \$0 | \$0 | \$0 |
| Buildings | | | | 0.0 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.0 | \$0 | \$0 | \$0 |
| Engineering/construction | | | | 0.0 | \$0 | \$0 | \$0 |
| Land | | | | 0.0 | \$0 | n/a | \$0 |
| Record Keeping System | \$340 | 17-Dec-2007 | 21-Jan-2008 | 0.1 | \$2 | n/a | \$2 |
| Training/Sampling | | | | 0.0 | \$0 | n/a | \$0 |
| Remediation/Disposal | | | | 0.0 | \$0 | n/a | \$0 |
| Permit Costs | | | | 0.0 | \$0 | n/a | \$0 |
| Other (as needed) | | | | 0.0 | \$0 | n/a | \$0 |

Notes for DELAYED costs

Estimated cost to properly dispose of approximately 2,050 gallons of grease trap sludge at an authorized sludge disposal facility. The date required is the date the violation was documented. The final date is the date of compliance.

Avoided Costs**ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

| | | | | | | | |
|-------------------------------|--|--|--|-----|-----|-----|-----|
| Disposal | | | | 0.0 | \$0 | \$0 | \$0 |
| Personnel | | | | 0.0 | \$0 | \$0 | \$0 |
| Inspection/Reporting/Sampling | | | | 0.0 | \$0 | \$0 | \$0 |
| Supplies/equipment | | | | 0.0 | \$0 | \$0 | \$0 |
| Financial Assurance [2] | | | | 0.0 | \$0 | \$0 | \$0 |
| ONE-TIME avoided costs [3] | | | | 0.0 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.0 | \$0 | \$0 | \$0 |

Notes for AVOIDED costs**Approx. Cost of Compliance**

\$340

TOTAL

\$2

Screening Date 11-Feb-2008

Docket No. 2008-0263-MLM-E

PCW

Respondent Mario Hernandez dba KK Busters Plumbing

Policy Revision 2 (September 2002)

Case ID No. 35375

PCW Revision January 29, 2008

Reg. Ent. Reference No. RN103162673

Media [Statute] Municipal Solid Waste

Enf. Coordinator Andrew Hunt

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code § 312.142(e)

Violation Description

Failed to submit a new registration application when the transport operations are no longer adequately described by the existing registration. Specifically, during the investigation, it was noted that the Respondent was disposing of waste at a facility not designated on the registration.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

| Release | Harm | | |
|-----------|-------|----------|-------|
| | Major | Moderate | Minor |
| Actual | | | |
| Potential | | | |

Percent 0%

>> Programmatic Matrix

| Falsification | Major | Moderate | Minor |
|---------------|-------|----------|-------|
| | x | | |

Percent 10%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1

2 Number of violation days

mark only one
with an x

| | |
|--------------|---|
| daily | |
| monthly | |
| quarterly | |
| semiannual | |
| annual | |
| single event | x |

Violation Base Penalty \$1,000

One single event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$800

This violation Final Assessed Penalty (adjusted for limits) \$800

Economic Benefit Worksheet**Respondent** Mario Hernandez dba KK Busters Plumbing**Case ID No.** 35375**Reg. Ent. Reference No.** RN103162673**Media** Municipal Solid Waste**Violation No.** 2

| Percent Interest | Years of Depreciation |
|------------------|-----------------------|
| 5.0 | 15 |

| Item Cost | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|---|---------------|------------|-----|----------------|---------------|-----------|
| Item Description No commas or \$ | | | | | | |

Delayed Costs

| | | | | | | | |
|--------------------------|-------|-------------|-------------|-----|-----|-----|-----|
| Equipment | | | | 0.0 | \$0 | \$0 | \$0 |
| Buildings | | | | 0.0 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.0 | \$0 | \$0 | \$0 |
| Engineering/construction | | | | 0.0 | \$0 | \$0 | \$0 |
| Land | | | | 0.0 | \$0 | n/a | \$0 |
| Record Keeping System | \$100 | 17-Dec-2007 | 18-Dec-2007 | 0.0 | \$0 | n/a | \$0 |
| Training/Sampling | | | | 0.0 | \$0 | n/a | \$0 |
| Remediation/Disposal | | | | 0.0 | \$0 | n/a | \$0 |
| Permit Costs | | | | 0.0 | \$0 | n/a | \$0 |
| Other (as needed) | | | | 0.0 | \$0 | n/a | \$0 |

Notes for DELAYED costs

Estimated costs to submit a new registration application. The date required is the date of investigation. The final date is the date of compliance.

Avoided Costs**ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

| | | | | | | |
|-------------------------------|--|--|-----|-----|-----|-----|
| Disposal | | | 0.0 | \$0 | \$0 | \$0 |
| Personnel | | | 0.0 | \$0 | \$0 | \$0 |
| Inspection/Reporting/Sampling | | | 0.0 | \$0 | \$0 | \$0 |
| Supplies/equipment | | | 0.0 | \$0 | \$0 | \$0 |
| Financial Assurance [2] | | | 0.0 | \$0 | \$0 | \$0 |
| ONE-TIME avoided costs [3] | | | 0.0 | \$0 | \$0 | \$0 |
| Other (as needed) | | | 0.0 | \$0 | \$0 | \$0 |

Notes for AVOIDED costs**Approx. Cost of Compliance**

\$100

TOTAL

\$0

Screening Date 11-Feb-2008

Docket No. 2008-0263-MLM-E

PCW

Respondent Mario Hernandez dba KK Busters Plumbing

Policy Revision 2 (September 2002)

Case ID No. 35375

PCW Revision January 29, 2008

Reg. Ent. Reference No. RN103162673

Media [Statute] Municipal Solid Waste

Enf. Coordinator Andrew Hunt

Violation Number 3

Rule Cite(s)

30 Tex. Admin. Code § 312.146 and Tex. Water Code § 26.039(b)

Violation Description

Failed to report discharges or spills to the TCEQ no later than 24 hours after the occurrence of the discharge or spill. Specifically, the Respondent did not report a December 13, 2007 spill at the Site until December 17, 2007.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

| Release | Harm | | |
|-----------|-------|----------|-------|
| | Major | Moderate | Minor |
| Actual | | | |
| Potential | | | |

Percent 0%

>> Programmatic Matrix

| Falsification | Major | Moderate | Minor |
|---------------|-------|----------|-------|
| | x | | |

Percent 10%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1

1 Number of violation days

| | | |
|----------------------------|--------------|---|
| mark only one with an x | daily | |
| | monthly | |
| | quarterly | |
| | semiannual | |
| | annual | |
| | single event | x |

Violation Base Penalty \$1,000

One single event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$800

This violation Final Assessed Penalty (adjusted for limits) \$800

Economic Benefit Worksheet**Respondent** Mario Hernandez dba KK Busters Plumbing**Case ID No.** 35375**Reg. Ent. Reference No.** RN103162673**Media** Municipal Solid Waste**Violation No.** 3

| Percent Interest | Years of Depreciation |
|------------------|-----------------------|
| 5.0 | 15 |

| Item Description | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|
| No commas or \$ | | | | | | | |

Delayed Costs

| | | | | | | | |
|--------------------------|-------|-------------|-------------|-----|-----|-----|-----|
| Equipment | | | | 0.0 | \$0 | \$0 | \$0 |
| Buildings | | | | 0.0 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.0 | \$0 | \$0 | \$0 |
| Engineering/construction | | | | 0.0 | \$0 | \$0 | \$0 |
| Land | | | | 0.0 | \$0 | n/a | \$0 |
| Record Keeping System | \$100 | 17-Dec-2007 | 17-Dec-2007 | 0.0 | \$0 | n/a | \$0 |
| Training/Sampling | | | | 0.0 | \$0 | n/a | \$0 |
| Remediation/Disposal | | | | 0.0 | \$0 | n/a | \$0 |
| Permit Costs | | | | 0.0 | \$0 | n/a | \$0 |
| Other (as needed) | | | | 0.0 | \$0 | n/a | \$0 |

Notes for DELAYED costs

Estimated costs to report noncompliant discharges or spills. The date required is the date of investigation. The final date is the date of compliance.

Avoided Costs**ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

| | | | | | | | |
|-------------------------------|--|--|--|-----|-----|-----|-----|
| Disposal | | | | 0.0 | \$0 | \$0 | \$0 |
| Personnel | | | | 0.0 | \$0 | \$0 | \$0 |
| Inspection/Reporting/Sampling | | | | 0.0 | \$0 | \$0 | \$0 |
| Supplies/equipment | | | | 0.0 | \$0 | \$0 | \$0 |
| Financial Assurance [2] | | | | 0.0 | \$0 | \$0 | \$0 |
| ONE-TIME avoided costs [3] | | | | 0.0 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.0 | \$0 | \$0 | \$0 |

Notes for AVOIDED costs**Approx. Cost of Compliance**

\$100

TOTAL

\$0

Screening Date 11-Feb-2008

Docket No. 2008-0263-MLM-E

PCW

Respondent Mario Hernandez dba KK Busters Plumbing

Policy Revision 2 (September 2002)

Case ID No. 35375

PCW Revision January 29, 2008

Reg. Ent. Reference No. RN103162673

Media [Statute] Municipal Solid Waste

Enf. Coordinator Andrew Hunt

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code § 330.15(c)

Violation Description

Failed to prevent the unauthorized discharge of pollutants including grease trap waste onto the ground of the Site.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

| Release | Harm | | |
|-----------|-------|----------|-------|
| | Major | Moderate | Minor |
| Actual | | | x |
| Potential | | | |

Percent 10%

>> Programmatic Matrix

| Falsification | | | |
|---------------|-------|----------|-------|
| | Major | Moderate | Minor |
| | | | |

Percent 0%

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants as a result of this violation.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1

43 Number of violation days

mark only one
with an x

| | |
|--------------|---|
| daily | |
| monthly | |
| quarterly | x |
| semiannual | |
| annual | |
| single event | |

Violation Base Penalty \$1,000

One quarterly event is recommended from date of investigation (12/17/2007) to date of compliance (01/29/2008).

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$6

Violation Final Penalty Total \$800

This violation Final Assessed Penalty (adjusted for limits) \$800

Economic Benefit Worksheet**Respondent** Mario Hernandez dba KK Busters Plumbing**Case ID No.** 35375**Reg. Ent. Reference No.** RN103162673**Media** Municipal Solid Waste**Violation No.** 4

| Percent Interest | Years of Depreciation |
|------------------|-----------------------|
| 5.0 | 15 |

| Item Cost | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|---|---------------|------------|-----|----------------|---------------|-----------|
| Item Description No commas or \$ | | | | | | |

Delayed Costs

| | | | | | | |
|--------------------------|---------|-------------|-------------|-----|-----|-----|
| Equipment | | | 0.0 | \$0 | \$0 | \$0 |
| Buildings | | | 0.0 | \$0 | \$0 | \$0 |
| Other (as needed) | | | 0.0 | \$0 | \$0 | \$0 |
| Engineering/construction | | | 0.0 | \$0 | \$0 | \$0 |
| Land | | | 0.0 | \$0 | n/a | \$0 |
| Record Keeping System | | | 0.0 | \$0 | n/a | \$0 |
| Training/Sampling | | | 0.0 | \$0 | n/a | \$0 |
| Remediation/Disposal | \$1,000 | 17-Dec-2007 | 29-Jan-2008 | 0.1 | \$6 | \$6 |
| Permit Costs | | | 0.0 | \$0 | n/a | \$0 |
| Other (as needed) | | | 0.0 | \$0 | n/a | \$0 |

Notes for DELAYED costs

Estimated costs to remove and properly dispose of contaminated soil from the Site. The date required is the date of investigation. The final date is the date of compliance.

Avoided Costs**ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

| | | | | | | |
|-------------------------------|--|--|-----|-----|-----|-----|
| Disposal | | | 0.0 | \$0 | \$0 | \$0 |
| Personnel | | | 0.0 | \$0 | \$0 | \$0 |
| Inspection/Reporting/Sampling | | | 0.0 | \$0 | \$0 | \$0 |
| Supplies/equipment | | | 0.0 | \$0 | \$0 | \$0 |
| Financial Assurance [2] | | | 0.0 | \$0 | \$0 | \$0 |
| ONE-TIME avoided costs [3] | | | 0.0 | \$0 | \$0 | \$0 |
| Other (as needed) | | | 0.0 | \$0 | \$0 | \$0 |

Notes for AVOIDED costs**Approx. Cost of Compliance**

\$1,000

TOTAL

\$6

Compliance History

Customer/Respondent/Owner-Operator: CN601171457 HERNANDEZ, MARIO Classification: HIGH Rating: 0.00
 Regulated Entity: RN103162673 K K BUSTERS PLUMBING Classification: HIGH Site Rating: 0.00
 ID Number(s): SLUDGE REGISTRATION 23383
 Location: 3221 WELLINGTON CT, BROWNSVILLE, TX, 78526 Rating Date: 9/1/2007 Repeat Violator: NO
 TCEQ Region: REGION 15 - HARLINGEN
 Date Compliance History Prepared: February 12, 2008
 Agency Decision Requiring Compliance History: Enforcement
 Compliance Period: February 12, 2003 to February 12, 2008
 TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
 Name: Andrew Hunt Phone: 512-239-1203

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A
 - B. Any criminal convictions of the state of Texas and the federal government.
N/A
 - C. Chronic excessive emissions events.
N/A
 - D. The approval dates of investigations. (CCEDS Inv. Track. No.)
1 02/25/2004 (262914)
N/A
 - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
 - F. Environmental audits.
N/A
 - G. Type of environmental management systems (EMSs).
N/A
 - H. Voluntary on-site compliance assessment dates.
N/A
 - I. Participation in a voluntary pollution reduction program.
N/A
 - J. Early compliance.
N/A
- Sites Outside of Texas
N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
MARIO HERNANDEZ DBA KK
BUSTERS PLUMBING
RN103162673**

**§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§
§ ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2008-0263-MLM-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Mario Hernandez dba KK Busters Plumbing ("the Respondent") under the authority of TEX. WATER CODE chs. 7 and 26 and TEX. HEALTH & SAFETY CODE ch. 361. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a sludge transporter facility at 3221 Wellington Court, Brownsville, Cameron County, Texas (the "Facility").
2. The Respondent has discharged sewage into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Facility involves or involved the management of municipal solid waste as defined in TEX. HEALTH & SAFETY CODE ch. 361.
4. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
5. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about January 29, 2008.
6. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

7. An administrative penalty in the amount of Two Thousand Eight Hundred Dollars (\$2,800) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid One Hundred Sixty Dollars (\$160) of the administrative penalty and Five Hundred Sixty Dollars (\$560) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

The remaining amount of Two Thousand Eighty Dollars (\$2,080) of the administrative penalty shall be payable in thirteen monthly payments of One Hundred Sixty Dollars (\$160) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

8. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
9. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
10. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:
 - a. On December 17, 2007, the TCEQ Harlingen Regional Office received a notice of noncompliance from the Respondent for a December 13, 2007 discharge of grease trap sludge;
 - b. On December 18, 2007, the TCEQ Harlingen Regional Office received an amendment to the registration including Valley Dewatering Services as an additional disposal site;
 - c. On January 21, 2008, the Respondent transported 2,050 gallons of sludge to Valley Dewatering Services disposal site from the storage tanks located at 9255 Old Highway 48, Brownsville, Cameron County, Texas ("the Site"); and
 - d. On January 29, 2008, the Respondent removed and properly disposed of grease-contaminated soil at the Site.
11. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.

12. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
13. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have:

1. Failed to deposit wastes at a facility designated by or acceptable to the generator where the owner or operator of the facility agrees to receive the waste and the (Texas) facility has written authorization by permit or registration issued by the Executive Director to receive wastes, in violation of 30 TEX. ADMIN. CODE § 312.143, as documented during an investigation conducted on December 17, 2007. Specifically, it was documented that the Respondent disposed of grease trap sludge waste at the Site, which was not authorized by permit or registration to receive waste.
2. Failed to submit a new registration application when the transport operations are no longer adequately described by the existing registration, in violation of 30 TEX. ADMIN. CODE § 312.142(e), as documented during an investigation conducted on December 17, 2007. Specifically, during the investigation, it was noted that the Respondent was disposing of waste at a facility not designated on the registration.
3. Failed to report discharges or spills to the TCEQ no later than 24 hours after the occurrence of the discharge or spill, in violation of 30 TEX. ADMIN. CODE § 312.146 and TEX. WATER CODE § 26.039(b), as documented during an investigation conducted on December 17, 2007. Specifically, the Respondent did not report a December 13, 2007 spill at the Site until December 17, 2007.
4. Failed to prevent the unauthorized discharge of pollutants including grease trap waste onto the ground at the Site, in violation of 30 TEX. ADMIN. CODE § 330.15(c), as documented during an investigation conducted on December 17, 2007.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 7 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Mario Hernandez dba KK Busters Plumbing, Docket No. 2008-0263-MLM-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088
2. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
3. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
5. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
6. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
7. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

CONFIDENTIAL - SECURITY INFORMATION



CONFIDENTIAL - SECURITY INFORMATION

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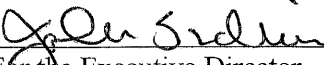
CONFIDENTIAL - SECURITY INFORMATION

CONFIDENTIAL - SECURITY INFORMATION

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission


For the Executive Director

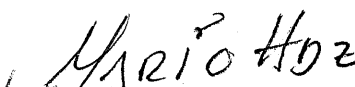
6/30/2008
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.


Signature

14/Abril/08
Date

Mario Hernandez
Name (Printed or typed)
Authorized Representative of
Mario Hernandez dba KK Busters Plumbing

Owner
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

10/10/10

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